



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

TJR  
Docket No: 3981-00  
1 December 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL OF RECORD [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps, filed enclosure (1) with this Board requesting, in effect, that the characterization of his discharge be changed.
2. The Board, consisting of Ms. Hare, Mr. Hogue, and Mr. Milner, reviewed Petitioner's allegations of error and injustice on 21 November 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
  - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
  - b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
  - c. Petitioner enlisted in the Marine Corps on 8 June 1988 at the age of 18. The record reflects he received the Combat Action Ribbon and Southwest Asia Service medal for service during Operation Desert Shield/Storm.
  - d. Petitioner served for two years without disciplinary incident. However, during his period of enlistment he was the subject of nonjudicial punishment (NJP) on three occasions. On 4 June and 15 August 1990 he received NJP for absence from his appointed place of duty, drunk and disorderly conduct and four

incidents of failure to obey a lawful order. Approximately a year and two months after the second NJP, on 19 October 1991, he received NJP for absence from his appointed place of duty, making a false official statement, writing a bad check valued at \$200, and two incidents of failure to obey a lawful order.

e. As a result of the foregoing misconduct, Petitioner was processed for an administrative separation by reason of misconduct due to minor disciplinary infractions. On 14 January 1992 he received an other than honorable discharge.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action.

The Board's finding is based on Petitioner's two years of good service, combat service, and the nature of his misconduct. The Board does not in any way condone Petitioner's misconduct, but notes that his disciplinary infractions consisted of relatively minor misconduct. Additionally, the Board notes that Petitioner served more than three years of his four-year enlistment. Accordingly, the Board concludes that no useful purpose is served by continuing to characterize Petitioner's service as having been under other than honorable conditions, and recharacterization to a general discharge is appropriate. Accordingly, the Board concludes that relief in the form of recharacterization of Petitioner's discharge is appropriate.

In view of the foregoing, the majority finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a general discharge on 14 January 1992 vice the discharge under other than honorable conditions actually issued on that same day.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

c. That, upon request, the Veterans Administration be informed that Petitioner's application was received by the Board on 9 May 2000.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director